

AMENDED IN ASSEMBLY AUGUST 20, 2010
AMENDED IN ASSEMBLY AUGUST 16, 2010
AMENDED IN ASSEMBLY JUNE 24, 2010
AMENDED IN ASSEMBLY MAY 26, 2010
AMENDED IN ASSEMBLY MARCH 11, 2010
AMENDED IN ASSEMBLY JULY 16, 2009
AMENDED IN ASSEMBLY JULY 2, 2009
AMENDED IN SENATE APRIL 13, 2009

SENATE BILL

No. 220

Introduced by Senator Yee
(Coauthor: Assembly Member Hill)

February 23, 2009

An act to add ~~Section 1367.002~~ *Sections 1367.002 and 1367.002.1* to the Health and Safety Code, and to add ~~Section 10112.2~~ *Sections 10112.2 and 10112.21* to the Insurance Code, relating to health care coverage.

LEGISLATIVE COUNSEL'S DIGEST

SB 220, as amended, Yee. Health care coverage: preventive health ~~services: services: tobacco cessation.~~

Existing law, the federal Patient Protection and Affordable Care Act (PPACA), enacts various health care coverage market reforms. With respect to plan years beginning on and after September 23, 2010, the act requires health insurance issuers to provide coverage, and not impose cost-sharing requirements, for certain preventive health services. *PPACA*

also requires each state to, by January 1, 2014, establish an American Health Benefit Exchange that facilitates the purchase of qualified health plans by qualified individuals and qualified small employers, as specified.

Existing law, the Knox-Keene Health Care Service Plan Act of 1975, provides for the regulation of health care service plans by the Department of Managed Health Care and makes a violation of the act a crime. Existing law provides for the regulation of health insurers by the Department of Insurance. *Existing law requests the University of California to establish the California Health Benefits Review Program to assess legislation proposing to mandate a benefit or service and legislation proposing to repeal a mandated benefit or service, as specified.*

This bill would require certain health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after September 23, 2010, to provide coverage, and not impose cost-sharing requirements, for certain preventive health services consistent with federal law.

The bill would also require certain health care service plan contracts and health insurance policies issued, amended, renewed, or delivered on or after January 1, 2011, to provide coverage for tobacco cessation treatment that includes specified courses of treatment and medication. The bill would request the University of California, as part of the California Health Benefits Review Program, to prepare a report regarding the savings to the health care system as a result of this coverage requirement. The bill would make the coverage requirement inoperative upon a determination by the American Health Benefit Exchange established in California that it will result in the state assuming additional costs, as specified.

Because a willful violation of the bill's provisions relative to health care service plans would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 *SECTION 1. The Legislature hereby finds and declares the*
2 *following:*

3 *(a) It is the intent of the Legislature that this act diminish the*
4 *statewide economic and personal cost of tobacco addiction by*
5 *making tobacco cessation treatments available to all smokers.*

6 *(b) Cigarette smoking and other uses of tobacco remain the*
7 *leading cause of preventable death in California, as well as the*
8 *cause of many other serious health problems, including heart*
9 *disease, emphysema, and other chronic illnesses.*

10 *(c) The treatment of tobacco-related diseases continues to*
11 *impose a significant burden on California's health care system,*
12 *including local and state funded health care systems. Tobacco use*
13 *costs Californians billions of dollars a year in medical expenses*
14 *and lost productivity.*

15 *(d) Providing tobacco cessation counseling and medication is*
16 *one of the most clinically effective and cost-effective health services*
17 *available, second only to inoculations.*

18 *(e) Reducing the smoking rate in California by one percentage*
19 *point will result in approximately \$91 million saved over five years*
20 *from fewer smoking-caused heart attacks and strokes.*

21 *(f) The United States Public Health Service Clinical Practice*
22 *Guideline entitled Treating Tobacco Use and Dependence has*
23 *identified the medications and counseling that are scientifically*
24 *proven to be effective in helping smokers quit.*

25 ~~SECTION 1.~~

26 *SEC. 2. Section 1367.002 is added to the Health and Safety*
27 *Code, to read:*

28 1367.002. To the extent required by federal law, a group or
29 individual health care service plan contract that is issued, amended,
30 renewed, or delivered on or after September 23, 2010, shall comply
31 with the requirements of Section 2713 of the federal Public Health
32 Service Act (42 U.S.C. Sec. ~~300gg~~ 300gg-13), as added by Section
33 1001 of the federal Patient Protection and Affordable Care Act
34 (Public Law 111-148), and any subsequent rules or regulations
35 issued pursuant to that section.

36 *SEC. 3. Section 1367.002.1 is added to the Health and Safety*
37 *Code, to read:*

1 1367.002.1. (a) (1) A health care service plan contract issued,
2 amended, renewed, or delivered on or after January 1, 2011, shall
3 cover a minimum of two courses of treatment in a 12-month period
4 for all smoking cessation treatments rated “A” or “B” by the
5 United States Preventive Services Task Force, which shall include
6 counseling and over-the-counter medication and prescription
7 pharmacotherapy approved by the federal Food and Drug
8 Administration.

9 (2) The coverage provided pursuant to this section shall only
10 be available upon the order of an authorized provider. Nothing in
11 this section shall preclude a health care service plan from allowing
12 enrollees to access tobacco cessation services on a self-referral
13 basis.

14 (3) As used in this section, “course of treatment” shall be
15 defined to consist of the following:

16 (A) As applied to counseling, at least four sessions of counseling,
17 which may be telephone, group, or individual counseling with each
18 session lasting at least 10 minutes.

19 (B) As applied to a prescription or over-the-counter medication,
20 the duration of treatment approved by the federal Food and Drug
21 Administration for that medication.

22 (4) Enrollees shall not be required to enter counseling in order
23 to receive tobacco cessation medications after the patient’s first
24 course of treatment.

25 (5) A health care service plan may not impose prior
26 authorization or stepped-care requirements on tobacco cessation
27 treatments after the patient’s first course of treatment.

28 (b) This section shall not apply to Medicare supplement plan
29 contracts or to specialized health care service plan contracts.

30 (c) The Legislature hereby requests that the University of
31 California, as part of the California Health Benefits Review
32 Program established under Section 127660, prepare a report by
33 December 31, 2013, evaluating the requirements of this section
34 and determining the savings to the health care system as a result
35 of those requirements. The Legislature requests that this report
36 be made available to the Legislature and the Exchange.

37 (d) This section shall become inoperative on the date that the
38 Exchange determines that the requirements of this section will
39 result in the state assuming additional costs pursuant to
40 subparagraph (B) of paragraph (3) of subsection (d) of Section

1 *1311 of the federal Patient Protection and Affordable Care Act*
2 *(Public Law 111-148), as amended by subsection (e) of Section*
3 *10104 of Title X of that act.*

4 *(e) For purposes of this section, “Exchange” means the*
5 *American Health Benefit Exchange established in California*
6 *pursuant to Section 1311 of the federal Patient Protection and*
7 *Affordable Care Act (Public Law 111-148).*

8 ~~SEC. 2.~~

9 *SEC. 4.* Section 10112.2 is added to the Insurance Code, to
10 read:

11 10112.2. To the extent required by federal law, a group or
12 individual health insurance policy that is issued, amended, renewed,
13 or delivered on or after September 23, 2010, shall comply with
14 the requirements of Section 2713 of the Public Health Service Act
15 (42 U.S.C. Sec. ~~300gg~~ 300gg-13), as added by Section 1001 of
16 the Patient Protection and Affordable Care Act (Public Law
17 111-148), and any subsequent rules or regulations issued pursuant
18 to that section.

19 *SEC. 5.* Section 10112.21 is added to the Insurance Code, to
20 read:

21 10112.21. (a) (1) *A health insurance policy issued, amended,*
22 *renewed, or delivered on or after January 1, 2011, shall cover a*
23 *minimum of two courses of treatment in a 12-month period for all*
24 *smoking cessation treatments rated “A” or “B” by the United*
25 *States Preventive Services Task Force, which shall include*
26 *counseling and over-the-counter medication and prescription*
27 *pharmacotherapy approved by the federal Food and Drug*
28 *Administration.*

29 (2) *The coverage provided pursuant to this section shall only*
30 *be available upon the order of an authorized provider. Nothing in*
31 *this section shall preclude an insurer from allowing insureds to*
32 *access tobacco cessation services on a self-referral basis.*

33 (3) *As used in this section, “course of treatment” shall be*
34 *defined to consist of the following:*

35 (A) *As applied to counseling, at least four sessions of counseling,*
36 *which may be telephone, group, or individual counseling with each*
37 *session lasting at least 10 minutes.*

38 (B) *As applied to a prescription or over-the-counter medication,*
39 *the duration of treatment approved by the federal Food and Drug*
40 *Administration for that medication.*

1 (4) *Insureds shall not be required to enter counseling in order*
2 *to receive tobacco cessation medications after the patient's first*
3 *course of treatment.*

4 (5) *A health insurer shall not impose prior authorization or*
5 *stepped-care requirements on tobacco cessation treatments after*
6 *the patient's first course of treatment.*

7 (b) *This section shall not apply to Medicare supplement policies*
8 *or to specialized health insurance policies.*

9 (c) *The Legislature hereby requests that the University of*
10 *California, as part of the California Health Benefits Review*
11 *Program established under Section 127660 of the Health and*
12 *Safety Code, prepare a report by December 31, 2013, evaluating*
13 *the requirements of this section and determining the savings to the*
14 *health care system as a result of those requirements. The*
15 *Legislature requests that this report be made available to the*
16 *Legislature and the Exchange.*

17 (d) *This section shall become inoperative on the date that the*
18 *Exchange determines that the requirements of this section will*
19 *result in the state assuming additional costs pursuant to*
20 *subparagraph (B) of paragraph (3) of subsection (d) of Section*
21 *1311 of the federal Patient Protection and Affordable Care Act*
22 *(Public Law 111-148), as amended by subsection (e) of Section*
23 *10104 of Title X of that act.*

24 (e) *For purposes of this section, "Exchange" means the*
25 *American Health Benefit Exchange established in California*
26 *pursuant to Section 1311 of the federal Patient Protection and*
27 *Affordable Care Act (Public Law 111-148).*

28 ~~SEC. 3.~~

29 SEC. 6. No reimbursement is required by this act pursuant to
30 Section 6 of Article XIII B of the California Constitution because
31 the only costs that may be incurred by a local agency or school
32 district will be incurred because this act creates a new crime or
33 infraction, eliminates a crime or infraction, or changes the penalty
34 for a crime or infraction, within the meaning of Section 17556 of
35 the Government Code, or changes the definition of a crime within
36 the meaning of Section 6 of Article XIII B of the California
37 Constitution.

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